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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,915	04/27/2001	Paul David Robbins	AP32737-072396.0225	1483

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EXAMINER	
GIBBS, TERRA C	

ART UNIT	PAPER NUMBER
1635	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/844,915	ROBBINS ET AL.	
	Examiner	Art Unit	
	Terra C. Gibbs	1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *1,2,4,7,9-12,30 and 32*.

   Claim(s) objected to: _____.

   Claim(s) rejected: *15,17,19,20 and 23-29*.

   Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). *filed 12/19/01*.

10. ☒ Other: *PTO-892 Form*

Continuation of 3. Applicant's reply has overcome the following rejection(s): Applicants amendment to the claims to recite "an adenoviral vector encoding CTLA4Ig" has overcome the 35 U.S.C. 112, first paragraph rejection against claims 4, 12, and 32. Applicants amendment to the claims to recite "wherein the oligodeoxyribonucleotide inhbits NF-kB transcriptional activity" has overcome the 35 U.S.C. 112, second paragraph rejection against claims 1, 7, 15, 17, and 30. Applicants amendment to the claims to recite "one or more cytokine(s)" has overcome the 35 U.S.C. 112, second paragraph rejection against claims 9 and 17.

Continuation of 5. does NOT place the application in condition for allowance because: Claims 15, 17, 19, 20, and 23-29 would remain rejected under 35 U.S.C. 112 first paragraph because the specification while being enabling for a method of enhancing tolerogenicity in a mammalian transplant host, comprising the intravenous administration of an isolated tolerogenic dendritic cell comprising an oligodeoxyribonucleotide, wherein the oligodeoxyribonucleotide is SEQ ID NO: 1, further comprising an adenoviral vector encoding CTLA4Ig, does not reasonably provide enablement for a method of enhancing tolerogenicity in a mammalian host, comprising any route of administration of an isolated tolerogenic dendritic cell comprising an oligodeoxyribonucleotide having one or more NF-kB binding sites, further comprising a viral vector. In response to this rejection, Applicants argue that support for "any" route of administraton of an isolated tolerogenic dendritic cell can be found in the specification at page 21. This is not found persuasive because the issue is not whether the instant specification has support for "any" route of administration of an isolated tolerogenic dendritic cell, but instead the issue is whether the instant application is enabled for "any" route of administration of an isolated tolerogenic dendritic cell. The instant specification teaches the intravenous administration of an isolated tolerogenic dendritic cell enhanced tolerogenicity in a mammalian host (see Examples 8, 9, and 10). The art teaches the intravenous administration of an isolated tolerogenic dendritic cell enhanced tolerogenicity in a mammalian host (see Xu et al., 2004, Ma et al., 2003, Bonham et al., 2002, and Giannoukakis et al., 2000). It is clear from the instant specification and the art that the instant method is accomplished via the intravenous administraton of an isolated tolerogenic dendritic cell and not via "any" route of administration as broadly claimed. In view of the teachings of the instant specification and the art, undue experimentation would be required to practice the invention throughout the full scope of the claims. This undue experimentation would include the de novo determination of how to systemically administer, for example, an isolated tolerogenic dendritic cell to enhance tolerogenicity in a mammalian host, where only intravenous administration is taught.

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